



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

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To: L&S Group Leaders  
Area Engineers

From: Charles W. Brown, PE, PLS  
State Location & Surveys Engineer

Subject: Pers 2007-1 Revised 2009  
Unit Policies on Leave Actions

This memo is to clarify this Unit's policy towards various types of leave granted to the employee, including Vacation Leave (VL), Sick Leave (SL), Leave Without Pay (LWOP), the Family Medical Leave Act (FMLA), the Family Illness Leave (FIL), Advanced Vacation/Sick Leave (AVSL), Voluntary Shared Leave (VSL), Community Service Leave, and Workers' Compensation/Short-Term Disability. The information in this memo is not meant to over-ride or supercede NCOSP and NCDOT policies and procedures. The NCDOT Human Resources Manual and the NCOSP State Personnel Manual are to be used for further reference.

**Vacation Leave (VL)**

VL is prior-approved, and is granted at the discretion of the supervisor. "Prior-approved" may include the morning of the requested leave. Anticipated, long-term use of VL (three or more continuous days) should be discussed with the supervisor at least two weeks prior to the initial date of absence.

Although not required, this Unit recommends maintenance of a minimum of three days of VL at all times. If an employee falls below that, habitually or continuously (not a one-time incident), the supervisor should address potential abuse of leave. In situations resulting in counseling or disciplinary actions caused by abuse of leave, three days will be the target for accumulated VL.

**Sick Leave (SL)**

Sick Leave is used on an as-needed basis. Occasional or normal unanticipated use of SL may not require documentation. Long-term SL (more than five working days) or continuous care SL may qualify for FMLA or FIL benefits, and may require a Certificate of Health Care Provider (WH-380, attached). Any SL resultant from injuries or a Health Care Provider's care will require a statement of release to return to work with no or limited restrictions (Workers Compensation Form MARTW, Medical Authorization/ Return to Work is the preferred form when the injury is work-related. WH-380 should be used in all instances). In the case of limited restrictions, Unit

management (Unit Head and/or Asst. Unit Head, Area Engineer, Group Leader) will evaluate the office's and Unit's abilities to accommodate those restrictions. Any employee with a long-term,

continuous, or recurring SL condition may be eligible for FMLA or FIL benefits. These should be discussed with the employee within three days of awareness of the circumstances, and application for benefits made at the onset of the condition.

### **Leave Without Pay (LWOP)**

LWOP is both a conduct and a performance issue. As such, LWOP is discouraged as a source of leave. However, NCDOT recognizes that there may be certain circumstances in which LWOP may be unavoidable.

Any non-medical request for LWOP must be submitted to Unit Head for review, at minimum one month prior to the need for LWOP. This request must include the reason for the LWOP and the anticipated duration. This request may or may not be approved.

Any medical request for LWOP must be accompanied by documentation from a medical provider (before if possible, or at minimum immediately upon return to work). This documentation should include the duration (actual or anticipated), and list restrictions (if any) upon return to work, and list anticipated duration of restrictions. This request for LWOP may or may not be approved. Unit management (identified above) will evaluate the office's and Unit's abilities to accommodate those restrictions.

Any employee requesting LWOP for medical reasons should be informed of the opportunities and procedures for requesting FMLA or FIL, VSL, and AVSL.

Unexcused LWOP or excessive requests for LWOP will be addressed through NCDOT's disciplinary policies.

### **Family Medical Leave Act (FMLA)**

The FMLA guarantees that an employee may not be dismissed due to a long-term and/or recurring illness (either self or family member) and covers the employee's medical insurance premium, for 12 weeks (60 days or 480 hours) over a one-year period. This can be continuous or intermittent, as long as the leave is associated with the illness defined in the Medical Provider's certification. FMLA benefits should be offered to the employee at such time as the employee indicates the needs for leave (Vacation, Sick, Bonus, or LWOP) due to a long-term or recurring illness. FMLA may be offered to the employee 30 days prior to anticipated leave or after three consecutive days of sick leave (unanticipated). Normal short-term illnesses such as colds, flu, etc., do not warrant or require FMLA, in which case the employee may choose not to request FMLA. Should the employee wish to utilize FMLA benefits, he/she has to provide the appropriate documentation (DOT-FMLA Form 1 (8/00), (attached) and the Certificate of Health Care Provider (WH-380). Both forms are available on the NCDOT Human Resources website under "Forms" at <http://www.ncdot.org/doh/forms/>. Form WH-380 is also listed on the NCDOT Electronic Forms site under the title "HEALTHPROV".

The 12-week allowance begins at such time as FMLA is approved by this office. Your office will need to keep track of all leave applied towards the FMLA illness (whether Vacation, Sick, Bonus, LWOP). FMLA benefits cannot be applied to other sick leave not associated with the FMLA illness. If FMLA benefits are partially used, and other FMLA-applicable illnesses occur during the

one-year period, the remainder of the FMLA benefits may be used, upon approval. This would require new FMLA forms specific to the different illness. Should the employee

refuse FMLA benefits, this Unit will still require the Medical Care Provider's Certification, at minimum, as evidence of the need for LWOP. I would remind you that Voluntary Shared Leave is always an option for those employees who have insufficient Sick/Vacation Leave to cover the duration of an anticipated absence due to illness.

#### **Family Illness Leave (FIL)**

FIL is a specific case where the employee is needed to care for a family member with a serious illness. It may be taken in lieu of FMLA. FIL has a duration of 52 weeks over 5 years. The FIL request form (attached) can be found on the NCDOT Human Resources website, under "Forms", as listed above. The Certificate of Health Care Provider (WH-380) is the same as required for FMLA.

#### **Advanced Sick/Vacation Leave (AVSL)**

According to NCDOT policy, qualifying employees can get AVSL advanced under "hardship" conditions. This policy (attached) can be found at on the NCDOT Human Resources website under "Manuals and Policies/ NCDOT Human Resources Manual" at <http://www.ncdot.org/services/personnel/manualandpolicies/hrmanual/>. Any request for AVSL is to be reviewed and approved by the Unit Head. Factors to be considered will include the anticipated duration of "hardship" conditions and the employee's history of use/maintenance of other types of leave.

#### **Voluntary Shared Leave (VSL)**

VSL is available to any employee with a prolonged medical condition or a medical condition that exists over a prolonged period of time. VSL allows any NC State government employed family members to donate SL, and NCDOT employees to donate VL to an NCDOT employee who meets the qualifying criteria (each NC Department has similar rules). Application for VSL must be made through the Unit Head to the Director of Human Resources (application attached).

#### **Community Service Leave**

Due to the tracking capabilities of the SAP and Beacon programs, this Unit will no longer require the CSL form to be filled out and signed. Each employee is responsible for keeping track of his/her own CSL leave expended. Any amount over the allowed annual 24 hours (up to a maximum of 36 hours for tutoring in a school or schools) will be charged to VL.

#### **Jury Duty**

Leave with pay is provided to employees when serving on a jury or when subpoenaed as a witness. It is the responsibility of the employee to inform the supervisor when the duty is scheduled and the expected duration. For non-job related jury duty, when the employee is subpoenaed or directed by proper authority to appear as a witness, the employee may choose one of the following options:

- Charge no leave and turn in fees received to the Department
- Use VL and retain fees received

If the employee is a witness for the NCDOT in court proceedings, this is to be considered as work time.

**Short-Term Disability / Workers' Compensation**

Short-Term Disability / Workers Compensation are very specific applications of benefits applied towards illness/medical conditions. If an employee's illness/medical condition may not be resolved within 60 days, that employee may be eligible for Short-Term Disability. If an employee is injured at work, the employee may be eligible for Workers' Compensation. In either case, the employee and supervisor should contact the central office for consideration and guidance.

All above criteria shall follow Office of State Personnel procedures as defined in the State Personnel Policies Manual, which can be found at <http://www.osp.state.nc.us/manuals/dropmenu.html>. Further clarification of certain policies can be found in the NCDOT Human Resources Manual, at <http://www.ncdot.org/services/personnel/manualandpolicies/hrmanual/>. All required forms can be obtained from the NCDOT Human Resources website or from the "Electronic Forms" section of the NCDOT website <http://www.ncdot.org/>.

Unit-wide consistency in the application of these policies is critical to the rights of our employees and to the successful operation of the Unit. I appreciate your compliance with this policy as stated. Please do not hesitate to contact me with any questions.

CWB

Attachments: WH-380: Certificate of Health Care Provider  
MARTW: Workers Comp. Medical Authorization/Return to Work  
DOT-FMLA Form 1 (8/00): Employee Notice/Request For FML  
Employee Request For Family Illness Leave  
NCDOT Policy – Advancement of Sick Leave And/Or Vacation Leave  
DOTVSL-1 (Rev 7/99): Request For Voluntary Shared Leave